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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/553,978 | 11/13/2006 | David F. Ford | 27726-95687 | 7958 |
| 23644 7590 01/25/2010 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786 | | | | |
| EXAMINER | | | | |
| ROSENBAUM, MARK | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3725 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 01/25/2010 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary

Application No.

10/553,978

Applicant(s)

FORD, DAVID F.

Examiner

Mark Rosenbaum

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/20/09 & 3/9/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 9, 10, 23 and 24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-14, 16-22 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

Claim 8 is allowed.

Claim 15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Election/Restrictions

Claims 9,10,23,24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/20/09.

Claim Rejections - 35 USC § 102

Claims 2,6,7 are rejected under 35 U.S.C. 102(b) as being anticipated by either PCT '763 or Maguire. Both publications show hoppers with shutters.

Claim Rejections - 35 USC § 103

Claims 1,3-5,11-14,16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (APA) in view of either Maguire or PCT '763. APA is the apparatus and process discussed early in the specification which includes the grinding of material using apparatus which includes the use of a grinding assembly with a slide gate mechanism to control material flow and hoppers which do not have shutters. Lack of shutters hinders flow control of the material. Both Maguire and PCT '763 show similar apparatus including the use of a shutter on a hopper. In order to provide for better flow control, it would have been obvious for one of ordinary skill in the

art to modify APA by providing a shutter on the hoppers, taught to be desirable by both Maguire and PCT '763.

Response to Arguments

Applicant's arguments filed 3/9/09 have been fully considered but they are not persuasive. The 35 USC 102 rejection set forth above is the same as that of the previous office action. For those claims rejected under this rejection, only a hopper is being claimed and this reads on the hopper of the respective publications i.e. hoppers with shutters. The new 35 USC 103 rejection set forth above has been made so as to clearly show the use of a slide gate mechanism in similar apparatus. The combination of references then show the use of both a slide gate mechanism and a shutter. It is also noted the the dependent claims have not been separately argued so that their patentability stands or falls with the parent claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 571-272-4523. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Rosenbaum
Primary Examiner
Art Unit 3725

/Mark Rosenbaum/
Primary Examiner, Art Unit 3725